

REMARKS

The Office Action of September 14, 2006 was received and carefully reviewed. Reconsideration and withdrawal of the currently pending rejections are requested for the reasons advanced in detail below.

Claims 1, 2 and 17-20 were pending prior to the instant amendment. By this amendment new claims 21 and 22 are added to recite additional features of the present invention to which Applicants are entitled. Consequently, claims 1, 2 and 17-22 are currently pending in the instant application.

Claim 2 is rejected under 35 U.S.C. §102(b) as being clearly anticipated by Nagaishi et al. (U.S. Patent No. 5,544,182). Further, claims 1 and 17-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Nagaishi et al. (U.S. Patent No. 5,544,182). These rejections are traversed for the reasons advanced in detail below.

Although the Examiner alleges that each and every feature recited in claim 2 is taught by Nagaishi et al., Applicants contend that Nagaishi et al. does not teach each and every feature. Specifically, the cited patent does not teach, at least, that the signal processing unit subjects the first electric signal and the second electric signal to a signal processing to grasp a state of the energy fluctuation of the laser beam whose energy has been adjusted by the light amount adjuster. As a result, the particular signal processing unit of the present invention is not taught by the reference to Nagaishi et al. Therefore, since each and every feature of the claimed invention is actually not taught by the cited reference, Applicants respectfully request that the 102(b) rejection be reconsidered and withdrawn.

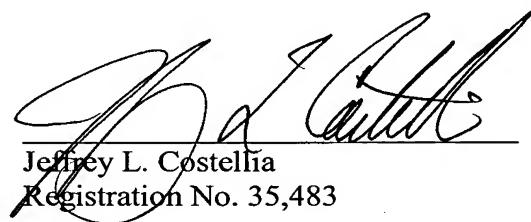
Claims 1 and 17-20 are rejected under 35 U.S.C. §103(a). The Examiner alleges that the computer disclosed in Nagaishi et al. is capable of calculating a frequency, amplitude, and a phase of the energy fluctuation of the laser beam by obtaining the energy fluctuation from the electric energies receiving from sensors 31 and 32 with software. However, Nagaishi et al. does not explicitly or implicitly suggest calculating a frequency, amplitude, and a phase of the energy fluctuation of the laser beam. As a result, the Examiner has failed to meet his burden of proof to establishing a *prima facie* case of obviousness because he has improperly relied upon inherency to attempt to reach at least one feature of the claimed invention. “Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” *In re Oelrich*, 666 F.2d 578, 581 (CCPA 1981).

Therefore, it is believed that the 103(a) rejection is not appropriate and should be withdrawn.

Applicants add new claims 21-22 which include the feature that the stage is located so that a substrate over the stage is irradiated with the laser beam which has transmitted through the exit side/second optical system. Applicants wish to point out that this feature is supported by the disclosure of the instant application, at least, for example, by Figure 1. It is believed that this feature is not disclosed in Nagaishi et al., since Nagaishi et al. teaches that target 16 is irradiated with laser light reflected by half mirror 72, not with laser light which has transmitted through half mirror 72. Therefore, claims 21 and 22 should be considered further distinguishable over the reference Nagaishi et al.

In view of the foregoing, it is respectfully requested that the rejections of record be reconsidered and withdrawn by the Examiner, that claims 1, 2 and 17-20 be allowed, that new claims 21 and 22 be allowed and that the application be passed to issue. If a conference would expedite prosecution of the instant application, the Examiner is hereby invited to telephone the undersigned to arrange such a conference.

Respectfully submitted,



Jeffrey L. Costellia
Registration No. 35,483

NIXON PEABODY LLP
Suite 900, 401 9th Street, N.W.
Washington, D.C. 20004-2128
(202) 585-8000